

The Examiner's Action dated April 28, 2006, has been received, and its contents carefully noted.

The indication of allowability of claims 2-11 is noted with appreciation. Since, however, it is believed that claim 1 defines patentably over the applied references, the allowable claims have been retained in dependent form.

The rejection of claim 1 as unpatentable over either one of two European patent references ('215 and '782) is traversed for the reason that the novel coffeemaker defined in claim 1 is not suggested by the teachings of either reference.

Claim 1 is directed to a coffeemaker for supplying hot water to an infusion head able to receive at least two cartridges of different diameters. As defined in claim 1, the infusion head has a support having at least one hollow forming a housing for at least two cartridges of different diameters and the hollow has a peripheral annular seat common to several seating flange diameters of different cartridges, with one or more parts of the external edge of the peripheral seat forming a vertical wall for common indexing of the cartridges.

Neither of the applied references discloses a coffeemaker having such an infusion head structure.

The coffeemaker disclose in the '215 reference includes a housing cylinder 30 that contains a counter-

cylinder 33 arranged to provide two vertically spaced seating surfaces. A cartridge of small height rests on the top edge of counter-cylinder 33, while a cartridge of greater height rests on the bottom of counter-cylinder 33.

Thus, this reference does not disclose a support that includes a hollow having a peripheral annular seat common to several seating flange diameters of different cartridges.

Furthermore, this reference clearly does not disclose a peripheral seat having an external edge forming a vertical wall for common indexing of cartridges having different diameters.

The '782 reference discloses a coffeemaker having a loading dish 3 for receiving capsules 4 of different sizes. The structure of loading dish 3 is not described or illustrated. In particular, there is no disclosure of any structure in loading dish 3 for positioning capsules so that they will be properly aligned with the percolation chamber 14. It would thus be quite easy for a user to position a capsule, particularly one having a smaller diameter, improperly so that when the percolation chamber is lowered, the edges of the chamber would encounter a portion of the capsule and possibly break it before chamber 14 has been completely lowered. This could prevent an acceptable brewing operation from being performed.

Thus, claim 1 distinguishes over the '215 reference by its recitation that the infusion head has a support having at least one hollow forming a housing for at least two cartridges of different diameters, "characterized in that said hollow has a peripheral annular seat common to several seating flange diameters of different cartridges", and claim 1 distinguishes over each of the applied references by at least the following recitation: "one or more parts of the external edge of said peripheral seat forming a vertical wall for common indexing of said cartridges".

It is noted that the explanation of the rejection includes no discussion of this latter feature.

Furthermore, a conclusion that a claim is obvious must be based on prior art that discloses every claimed feature. Specially, to support a proper rejection, a prior art reference or references must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. MPEP §2142. These requirements have not been met by the present rejection.

Furthermore, reliance on *In re Stevens* is particularly inappropriate. Firstly, the legal principal for which this decision is cited does not appear in that decision.

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Specifically, there is no reference in that decision to "the general conditions of a claim" or to the discovery of "the optimum or workable arrangement".

What the Stevens decision does demonstrate is that a prior art rejection must be based on prior art that discloses every feature of a rejected claim. That decision clearly involved a case in which the examiner relied upon a combination of references that individually disclosed each claim feature. Such prior art is lacking in the rejection hereunder consideration.

In view of the foregoing, it is requested that the prior art rejection be reconsidered and withdrawn, that claim 1 be allowed and that the application be found in allowable condition.

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If this response should not now place the application in condition for allowance, the Examiner is invited to call undersigned counsel to resolve any remaining issues.

Respectfully submitted,

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